

## SUBCHAPTER H—CLAUSES AND FORMS

### PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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AUTHORITY: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SOURCE: 53 FR 26177, July 11, 1988, unless otherwise noted.

#### 652.000 Scope of part.

This part sets forth solicitation provisions and contract clauses, in addition to those prescribed in FAR Part 52, for use in DOS acquisitions.

#### Subpart 652.1—Instructions for Using Provisions and Clauses

##### 652.100 Scope of subpart.

##### 652.100-70 Policy.

(a) The solicitation provisions and contract clauses in FAR Subpart 52.2 or this Subpart 652.2 shall be used as prescribed therein, except when the use of any provision or clause is prohibited by or inconsistent with local laws, or the supplies or services could not be obtained if the provision or clause were to be included.

(b) The contracting officer shall justify the exclusion of any provisions or clauses in accordance with FAR Subpart 1.4 and 601.470.

##### 652.102 Incorporating provisions and clauses.

##### 652.102-1 Incorporation by reference.

The Procurement Executive is the agency head for the purposes of FAR 52.102-1(a)(2)(ii).

#### Subpart 652.2—Texts of Provisions and Clauses

##### 652.200 Scope of subpart.

This subpart sets forth the text of all DOSAR provisions and clauses, and for each provision and clause provides a cross-reference to the location in the DOSAR that prescribes its use.

##### 652.206-70 Competition Advocate/Ombudsman.

As prescribed in 606.570, insert the following provision:

## Department of State

### COMPETITION ADVOCATE/OMBUDSMAN (AUG 1999)

(a) The Department of State's Competition Advocate is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition and use of commercial items. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and commercial practices, potential offerors are encouraged to first contact the contracting officer for the respective solicitation. If concerns remain unresolved, contact the Department of State Competition Advocate on (703) 516-1680, by fax at (703) 875-6155, or write to: Department of State, Competition Advocate, Office of the Procurement Executive (A/OPE), Suite 603, SA-6, Washington, DC 20522-0602.

(b) The Department of State's Acquisition Ombudsman has been appointed to hear concerns from potential offerors and contractors during the preaward and postaward phases of this acquisition. The role of the ombudsman is not to diminish the authority of the contracting officer, the Technical Evaluation Panel or Source Evaluation Board, or the selection official. The purpose of the ombudsman is to facilitate the communication of concerns, issues, disagreements, and recommendations of interested parties to the appropriate Government personnel, and work to resolve them. When requested and appropriate, the ombudsman will maintain strict confidentiality as to the source of the concern. The ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Interested parties are invited to contact the contracting activity ombudsman, [insert name], at [insert telephone and fax numbers]. For an American Embassy or overseas post, refer to the numbers below for the Department Acquisition Ombudsman. Concerns, issues, disagreements, and recommendations which cannot be resolved at a contracting activity level may be referred to the Department of State Acquisition Ombudsman at (703) 516-1680, by fax at (703) 875-6155, or write to: Department of State, Acquisition Ombudsman, Office of the Procurement Executive (A/OPE), Suite 603, SA-6, Washington, DC 20522-0602.

(End of provision)

[64 FR 43629, Aug. 11, 1999]

### 652.216-70 Ordering—Indefinite-Delivery Contract.

As prescribed in 616.506-70, insert the following clause:

## 652.216-71

### ORDERING—INDEFINITE-DELIVERY CONTRACTS (DEC 1994)

The Government shall use one of the following forms to issue orders under this contract:

(a) The Optional Form 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule—Continuation; or,

(b) The Optional Form 206, Purchase Order, Receiving Report and Voucher, and Optional Form 206A, Continuation Sheet.

(End of clause)

[53 FR 26177, July 11, 1988, as amended at 59 FR 66768, Dec. 28, 1994; 64 FR 43630, Aug. 11, 1999]

### 652.216-71 Price Adjustment.

As prescribed in 616.203-4, insert a clause substantially the same as follows:

#### PRICE ADJUSTMENT (AUG 1999)

(a) The contract price may be increased or decreased in actual costs of direct service labor which result directly from laws enacted and effective during the term of this contract by the [insert name of country] Government. Direct service labor costs include only the costs of wages and direct benefits (such as social security, health insurance, unemployment compensation insurance) paid to or incurred for the direct benefit of personnel performing services under one of the categories listed in Section [identify section number] of this contract. Price adjustments will include only changes in direct service labor costs incurred in order to comply with the requirements of the law. No adjustment will be made under this clause with respect to labor costs of personnel not performing direct service labor under the categories of Section [identify section], nor for overhead, profit, general and administrative (G&A) costs, taxes or any other costs whatsoever.

(b) For the contracting officer to consider any request for adjustment, the contractor shall demonstrate in writing:

(1) That the change in the law occurred during the term of this contract and subsequent to the award date of this contract; and,

(2) That the change in the law could not have been reasonably anticipated prior to contract award; and,

(3) How the change in the law directly affects the contractor's costs under this contract.

(c) The contractor shall present data that clearly supports any request for adjustment. This data shall be submitted no later than 30 calendar days after the changes in the law